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Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Addendum

Mission to Côte d'Ivoire (7–10 October 2014)* **

Summary

The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination visited Côte d'Ivoire from 7 to 10 October 2014 at the invitation of the Government. In accordance with its mandate, the Working Group gathered information on mercenaries and mercenary-related activities as well as the effects of the activities of private military and security companies on the enjoyment of human rights. It met with the Ivorian authorities, as well as representatives from foreign embassies and civil society organizations, to discuss the positive initiatives that had taken place since the 2002 armed conflict and the post-election crisis in 2010.

* The summary of the present report is circulated in all official languages. The report itself, which is annexed to the summary, is circulated in the language of submission and French only.

** Late submission.

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The Working Group commends the Ivorian authorities for the number of positive initiatives that have been undertaken to help move the country forward and to deal with security threats such as mercenarism. Various reforms have been made to strengthen the security institutions, and the Dialogue, Truth and Reconciliation Commission, the National Commission of Inquiry and a special investigation unit focusing on receiving complaints related to the post-election crisis have been established. The creation of the National Human Rights Commission has also been positive. Furthermore, considerable efforts have been made to harmonize national legislation in order to bring it into compliance with international human rights standards, including the ratification of the Rome Statute of the International Criminal Court to strengthen the investigation and prosecution of perpetrators of violations during the post-election crisis. Efforts have also been made to address the proliferation of arms in the public domain.

Notwithstanding the positive initiatives made, serious human rights challenges remain. The Working Group is concerned about the widespread lack of confidence in the justice system and the prevalent culture of impunity for perpetrators of human rights violations. During its visit, the Working Group was informed that mercenaries had been recruited by both sides to the conflicts and had been responsible for grave violations, including mass killing, rape, torture, enforced disappearance and abduction. Children had been recruited to fight alongside mercenaries. Other armed perpetrators of violations have included local militia on both sides and *dozos* (traditional hunters), who have fought in support of the current regime.

Despite widespread information on violations, there has been little progress in the prosecution of mercenaries or other armed actors in Côte d'Ivoire or in their countries of origin. Those who have been convicted have mostly been associated with the former regime; there have been no convictions of perpetrators close to the current regime. The Working Group emphasized the need to combat impunity and strengthen access to effective legal assistance and remedies for victims in order to achieve lasting stability and reconciliation. Political divisions and polarization have continued to hinder successful reconciliation and nation-building efforts.

The Working Group also looked into the activities of private security companies and the role they played during the conflicts. It noted the huge increase in private security companies after the conflicts and the existence of hundreds of such companies operating illegally in the country. The proliferation of arms and the fact that private security personnel have access to weapons are issues of concern. Weapons need to be effectively controlled and managed.

The Working Group made recommendations, including to improve access to effective justice and remedies for victims and to end the culture of impunity by bringing perpetrators to justice regardless of their political affiliations. It urged the Government to ensure the protection of victims and witnesses who wish to engage in the judicial process concerning the past conflicts. It recommended that the Government urgently adopt the law on human rights defenders and the law on the protection of victims and witnesses, and that it address and counter the disturbing violence in the country involving gangs of young people and against women and children. Regarding private security companies, the Working Group made several recommendations, including the strengthening of oversight of operations and the establishment of redress mechanisms for victims of human rights violations.

Annex

[English and French only]

Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination on its mission to Côte d'Ivoire (7–10 October 2014)

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I. Introduction

1. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination visited Côte d'Ivoire from 7 to 10 October 2014. The visit was conducted at the invitation of the Government. In accordance with its general practice, the visiting delegation comprised two members of the Working Group (Patricia Arias, as Chairperson-Rapporteur for 2014, and Anton Katz), as well as staff of the Office of the United Nations High Commissioner for Human Rights and United Nations interpreters. The visit was organized with the assistance and support of staff of the United Nations Operation in Côte d'Ivoire (UNOCI).

2. Pursuant to Commission on Human Rights resolution 2005/2 and Human Rights Council resolutions 24/13 and 27/17, the Working Group monitors mercenaries and mercenary-related activities in all their forms and manifestations in different parts of the world and studies the effects of the activities of private companies offering military assistance, consulting and security services on the international market on the enjoyment of human rights, particularly the right to self-determination.

3. In the present report, the Working Group uses the term "mercenary" as it is defined in article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, namely, to describe any person who: (a) is specially recruited locally or abroad in order to fight in an armed conflict; (b) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; (c) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (d) is not a member of the armed forces of a party to the conflict; and (e) has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

4. The right to self-determination is recognized in Article 1 (2) of the Charter of the United Nations as a fundamental principle and necessary for the achievement of universal peace. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which Côte d'Ivoire has ratified, also recognize that all peoples have the right to self-determination and that, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. The African Charter on Human and Peoples' Rights refers to the right to self-determination as "unquestionable and inalienable". The Working Group has consistently recognized that mercenarism and mercenary-related activities pose grave threats to the right of peoples to self-determination and to the peace and security of developing countries, particularly in Africa and in small States.

5. In the present report, a private military and/or security company is understood to be a corporate entity that provides, on a compensatory basis, military and/or security services by physical persons and/or legal entities.

6. During its visit, the Working Group was not able to travel outside of Abidjan to the areas bordering Liberia or to other provinces where armed attacks by mercenaries had taken place, owing to the Ebola crisis in the region.

7. In Abidjan, the delegation was able to meet with the following representatives from the executive, legislative and judiciary branches of the State: the Minister to the President in charge of defence; the Minister of the Interior; the Director of Security within the Ministry of the Interior; staff from the Ministry of Foreign Affairs and the Ministry of Justice, Human Rights and Public Freedoms; the Prosecutor of the Court of First Instance

of Abidjan; the Prosecutor General at the Court of Appeal of Abidjan; representatives of the National Assembly; the Director of the Authority on Disarmament, Demobilization and Reintegration of former combatants; the General Controller of the National Commission to Combat the Proliferation and Illegal Movement of Small Arms and Light Weapons; the Division Commissioner responsible for the decisions coordination operational centre; the Director General of the National Police; the Senior Commander of the National Police; the Commissioner of the Military Court; the Chief of the Army; and the Chief of the Gendarmerie. The Working Group also met with representatives of the National Human Rights Commission.

8. The Working Group was able to meet with members of staff of various United Nations agencies, as well as representatives of the diplomatic community, civil society organizations and private security companies operating in the country.

9. The Working Group would like to thank the Government of Côte d'Ivoire and the staff of UNOCI for the valuable cooperation and support given during the visit. It also wishes to thank all of those who gave their time and made the effort to meet with the delegation.

II. Legal framework

10. Despite its turbulent past, Côte d'Ivoire has made considerable efforts to harmonize its national legislation with international human rights agreements. It has ratified several of the core international human rights treaties, including the International Covenant on Civil and Political Rights and the Rome Statute of the International Criminal Court, thus undertaking to uphold international obligations in respect of international crimes. It has also ratified the African Charter on Human and Peoples' Rights.

11. The Constitution of Côte d'Ivoire gives supremacy to ratified international agreements and gives due regard to human rights. However, it has yet to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and is only a signatory to the African Union Convention for the Elimination of Mercenarism in Africa.

III. Historical context: 2002 and 2010 armed conflicts

12. After gaining independence in 1960, Côte d'Ivoire enjoyed a period of peace and economic progress under the leadership of Félix Houphouët-Boigny. It became a popular destination for migrants from neighbouring countries, such as Burkina Faso and Mali. After the death of Houphouët-Boigny in 1993, intense rivalry for power within political circles began to affect national stability.

13. In 1999, the country experienced its first coup d'état. In 2000, a constitutional referendum was held to bring about changes that would require both parents of presidential candidates to be born in Côte d'Ivoire, effectively disqualifying candidates such as Alassane Ouattara, who hailed from the north of the country and who had family ties to Burkina Faso. The controversial referendum politicized ethnic identity under nationalist and xenophobic slogans such as *Ivoirité*, supported by politicians such as Henri Bédié and, later, Laurent Gbagbo. *Ivoirité* and continuous discrimination against immigrants such as those from Burkina Faso contributed to the growing tensions that triggered the conflict of 2002.

14. In 2002, war broke out and violent attacks occurred in major cities. The country became divided between north and south. Government forces headed by Laurent Gbagbo

were mostly situated in the south of the country, while the rebel forces supporting Ouattara, which aimed to occupy various cities, were mostly based in the north. Forces involved in the conflict included the national army, youth organizations and other nationalist groups siding with Gbagbo, while the Forces armées des Forces nouvelles were part of the rebel group, along with *dozos* (traditional hunters). Mercenaries from neighbouring and other countries were recruited by both sides to the conflict, along with local militia or civilian combatants, to fight in the war. Scores of human rights violations were perpetrated by these mercenaries, including summary executions, abductions, torture and sexual violence against women. After a series of violent clashes, the conflict finally came to a standstill in 2007 with the signing of the Ouagadougou Peace Agreement.

15. Peace for the country, however, was short lived. After the 2010 presidential elections, clashes between Gbagbo and Ouattara supporters broke out in various parts of the country, leading to a second civil war. The main cause of the conflict was the refusal of Gbagbo to concede victory to Ouattara. Once again, mercenaries were recruited to engage in the second conflict. Like in the first conflict, mass murders and widespread human rights violations were committed by both sides, resulting in hundreds of killings and other atrocities. The conflict came to an end in April 2011 with the arrest of Gbagbo. An estimated 3,000 people died in the violent clashes that took place over a period of five months.

IV. Mercenarism and human rights violations

16. The Working Group met with various interlocutors who spoke of the involvement of mercenaries during both conflicts. The porousness of the borders of Côte d'Ivoire facilitated the recruitment and use of mercenaries in the conflicts. An estimated 4,500 mercenaries were reportedly recruited to fight in both conflicts in Côte d'Ivoire, with a large number coming from the west, where the country borders Liberia, and from other countries, such as Burkina Faso and Angola.

17. The recruitment of a large number of mercenaries has been mostly associated with the pro-Gbagbo side. Gbagbo was reportedly using government funds to bring in mercenaries and local militiamen to bolster the national armed forces and the Young Patriots, to fight together against the rebels from the north. The Working Group was informed that mercenaries from Belarus were hired by Gbagbo for training purposes and to carry out technical functions. In addition to receiving financial payments, mercenaries were also reportedly supplied with armour and weapons.

18. The rebel forces comprised the Forces armées des Forces nouvelles and *dozos*, who fought against Gbagbo troops. The Working Group was informed that the rebel forces had also recruited mercenaries from neighbouring countries, such as Burkina Faso and Liberia. In March 2011, President Ouattara established the Forces républicaines de Côte d'Ivoire by merging the national army and the Forces armées des Forces nouvelles.

19. At the onset of the post-election crisis, clashes between Gbagbo troops and the Forces armées des Forces nouvelles rebels took place in the western province of the country and made their way to Abidjan, Yamoussoukro and other towns. Youpougon was a Gbagbo stronghold where mercenaries were involved in intense fighting between the two sides to the conflict around April 2011. From April onwards, and particularly after the arrest of Gbagbo, the Yopougon district became a principal place of warfare between the two camps. Large numbers of mercenaries also attacked communities in various areas, such as Duékoué and Toulépleu in the west, where mass killings of people occurred as a result of the confrontations between pro-Gbagbo forces and the Forces républicaines.

20. The Working Group received much information on the human rights violations committed by mercenaries and other armed groups, including extrajudicial killings, rape, torture, enforced disappearance and abductions as well as pillaging and arbitrary arrest and detention. Other accounts also highlighted the high number of gross violations against women and children, including sexual violence, such as female genital mutilations. The use of child soldiers by both sides of the conflict also took place in huge numbers. Violence was instigated against United Nations officials and foreign nationals residing in the country. In the aftermath of the crisis, hundreds of thousands of people were internally displaced and could not return to their homes. Properties were also occupied by hostile persons, including security forces.

V. Positive initiatives

21. In spite of its difficult past with two civil wars in just over a decade, the Ivorian authorities have made significant progress in reinstating the rule of law and State institutions and mechanisms to address the challenging aftermath of the conflicts.

22. At the forefront of the initiatives is the establishment of the Dialogue, Truth and Reconciliation Commission to assist in achieving reconciliation for Ivorians, as well as the National Commission of Inquiry to aid in receiving complaints on violations that took place during the conflicts. The Working Group was informed that over 65,000 victims of the Ivorian conflicts had been heard by the 37 local commissions of the Dialogue, Truth and Reconciliation Commission. The reinstatement of judicial structures has been gradual but, given that most of those structures were destroyed during the post-election conflict, this is a welcoming work-in-progress. The ratification of the Rome Statute to allow for referrals to the International Criminal Court where necessary has also been a positive step in bolstering the judicial mechanisms to deal with the past conflicts.

23. Progress has also been made by the Government in the establishment of the Authority on Disarmament, Demobilization and Reintegration of former combatants, which is supported by UNOCI. This programme assists with the disarmament, resocialization and training of former combatants and their reinsertion into society. The creation of the National Commission to Combat the Proliferation and Illegal Movement of Small Arms and Light Weapons is also a significant step in strengthening the control of small arms and light weapons and is a positive effort towards disarming civilians and collecting light weapons in the public domain.

24. The Working Group commends the Government for the establishment of the National Human Rights Commission, which has the mandate to promote, protect and defend human rights in the country, but notes that the independence of that institution needs to be strengthened and that adequate resources need to be provided for the Commission to fully carry out its functions.

25. The Working Group was informed of the creation of a special investigation unit under the Ministry of Justice to look into the violations that had taken place during the post-election crisis. The special unit comprises various entities, including from the police and gendarmerie, and can bring about proceedings and carry out specific missions in the field as part of its investigation procedure. It also maintains a database of cases of violations. Approximately 100 cases relating to mercenaries have been registered in the database.

VI. Ongoing challenges to national stability

26. The phenomenon of mercenarism thrives in conditions where the rule of law is weak, State institutions are fragile and political instability is rife. Given the country's

history of armed conflicts and the existing threats to national security, the Ivorian authorities will need to address the challenges below in order to safeguard against the recurrence and expansion of mercenarism and mercenary-related activities.

A. Impunity and lack of accountability

27. The Working Group was repeatedly informed that many Ivoirians lacked confidence in their justice system, particularly in relation to bringing to justice perpetrators of violations committed during the past conflicts and ensuring access to remedies for victims of violations. It was also perceived by many that judicial actions had been aimed at only one side to the conflict and that the justice system had double standards. Regarding mercenarism, one interlocutor stated that the question of mercenaries was sometimes considered a taboo question because the issue was caught between those who were currently in power and those who had been in power before. The Government, following the mission of the Working Group, also stated that there were two types of judicial proceedings: those relating to economic offences, and those for blood crimes. In its 2012 report, the National Commission of Inquiry stated that both sides to the conflicts had committed serious human rights violations. Despite this, the focus has been on convicting perpetrators who supported the former Gbagbo regime. The Working Group was not informed of any judicial processes or prosecutions relating to perpetrators who supported the current regime. In fact, former combatants close to the current regime have been given positions of authority in the Government, thus worsening the problem of impunity.

28. The low number of prosecutions and convictions of perpetrators involved in the past conflicts is striking. The Working Group noted that, despite the well-known presence of mercenaries on both sides to the conflicts, very little headway had been made in bringing them or those who were responsible for their recruitment to justice. Judicial processes have been slow in dealing with complaints of human rights violations, and the independence of State institutions, including the judiciary, requires strengthening in the light of the power held by the current regime, certain members of which were also former combatants.

29. The special investigation unit tasked with bringing to justice perpetrators of violations committed during the post-election crisis, although a critical mechanism, faced problems in the form of constant changes to its presiding judges. It was also understaffed and its investigative functions needed to be strengthened to prevent impunity. The Working Group is pleased, however, that the mandate of the unit has been extended.

30. The Working Group was informed of several incidents of the use of excessive force by elements of the Forces républicaines, which poses threats to human rights, including the rights to life and security of civilians. The number of alleged Forces républicaines perpetrators facing prosecution remains low, contributing to impunity and weakening public confidence in the security sector. The Working Group received information that training on human rights standards had been undertaken by the Forces républicaines to improve this problem but that it had not effectively addressed the overall situation. Forces républicaines elements have also been responsible for illegally occupying residential properties by force, leaving owners without homes. To date, more than 600 properties continue to be occupied.

31. The ratification of the Rome Statute by Côte d'Ivoire after the post-election crisis is positive and has provided an avenue for the International Criminal Court to cooperate closely with the Ivorian authorities in processing cases relating to the post-election crisis. The cases of Laurent Gbagbo and the Young Patriots leader Charles Blé Goudé are currently before the International Criminal Court tribunal at The Hague. During its visit to Côte d'Ivoire, the Working Group was informed of the presence of Court officials in the

country as part of ongoing investigations into the past conflicts and it hopes that existing collaborative efforts will assist in bringing to justice those who were responsible for human rights violations regardless of which side of the conflict they fought on. During the preparation of the present report, the Working Group was informed of the conviction of Simone Gbagbo for her role in the past conflicts. Seventy-nine people have also been tried for their role in the post-election crisis. The Working Group welcomes the continued cooperation of the authorities with the International Criminal Court mechanism as a step towards ending impunity. However, it notes the importance of ensuring that investigations and prosecutions by the Court also extend to perpetrators who are associated with the former regime.

Extraditions related to armed attacks

32. Trials related to mercenaries in the Ivorian crisis have also been under way in neighbouring Liberia, where the crime of mercenarism is stipulated in the Criminal Procedure Code. Mercenarism is not specifically stipulated in the criminal laws of Côte d'Ivoire.

33. The Working Group was informed of former combatants who have been held in prolonged preventive detention. Most of the detainees were associated with the former regime. The Working Group is concerned that some of the individuals have been in pretrial detention for as long as three years. Around 250 individuals were reported to the Working Group to be in pretrial detention.

34. In June 2012, a magistrate court in Liberia authorized the extradition to Côte d'Ivoire of 41 Ivorian detainees who had been in detention since April 2011. The individuals were suspected of having been involved in the post-election violence and some were also accused of war crimes. The Working Group was informed of several problems concerning the extradition process between the two countries. At least 11 of the 41 detainees had apparently presented formal requests for asylum, which had to be processed by the Court before extradition could be authorized. An appeal was made by the detainees' lawyer against the decision but the extradition was carried out anyway. The detainees were charged in Abidjan with offences that included genocide, crimes against the civilian population, murder, assassination, crimes against prisoners of war and assault and battery. The detainees were then placed in preventive detention and transferred to various locations throughout the country.

35. The Working Group was informed of six persons who were arrested in Liberia in October 2012, five of whom were Ivorians. The Ivorian authorities addressed the extradition request for the six suspects, who are currently in preventive detention in Abidjan. The cases of the individuals are being dealt with by the special investigation unit.

B. Lack of access to justice and remedies for victims

36. Access to justice, as well as remedies and effective redress, not only remains an immense challenge for victims of the conflicts, but also contributes to the pervasive impunity and lack of accountability associated with the justice system. The Working Group received information that many victims had not been able to bring their cases to court.

37. The Working Group observed the need to disseminate information and educate victims on their rights and the available services to facilitate access to justice. Legal aid is provided by the State but victims were not always able to access this service, particularly if they resided in remote areas away from legal aid centres. Vulnerable victims, such as women and children, often faced difficulty in seeking assistance, particularly when their cases involved sexual violence. A culture of shame and silence made it extremely difficult

for victims to bring their cases forward. Costs associated with trying to provide information and build a case for victims also hindered access to justice.

38. Ensuring access to justice and remedies for victims requires that they be treated fairly and impartially irrespective of their political or ethnic affiliation. Furthermore, the fear of reprisals and a lack of safeguards for victims has made seeking redress problematic. Robust protection measures for victims and witnesses, as well as judicial officers to ensure the independence of their work, are needed. The Working Group noted the need to provide appropriate and just reparation for victims as well as services to help them deal with the physical and psychological trauma they have suffered.

39. The Working Group was informed of a critical draft law on the protection of victims and on witness protection in judicial proceedings that had yet to be adopted by the authorities. In its debriefing with the Government, the Working Group urged the prompt adoption of the law to strengthen protection of victims or witnesses involved in judicial processes.

C. Threats to lasting national reconciliation and security

1. Cross-border activities

40. Having geographically delimited borders is a foreign concept in Côte d'Ivoire. Ivorians and citizens of neighbouring countries such as Liberia have traditionally moved freely in and out of Côte d'Ivoire, in part because relatives live side by side on both sides of the border. Despite increased attempts to strengthen border monitoring, control and management, Ivorian authorities continue to face challenges in curbing cross-border criminal activities, including mercenarism. The borders of the country remain porous and corruption by border control agents has been reported as a persistent problem.

41. Armed attacks took place in 2012, 2013 and 2014, underscoring the volatile security situation in the country. Towns located along the Liberian border such as Grabo and Fété experienced an armed attack early in 2014. Several months later, another attack resulted in 10 deaths, including children and members of the Forces républicaines. Sixteen individuals from Liberia, Sierra Leone and Ghana who were allegedly involved in the attack were arrested on their way to Ghana. They were later released owing to lack of evidence.

42. After the post-election crisis, combatants supporting the Gbagbo regime fled to neighbouring countries, where some remain in exile. The Working Group received reports of numerous attempts to destabilize the country by prominent Ivorians who supported the former regime and who reside in Ghana. This has affected the diplomatic relations between the two countries. The Working Group also received information that the Ivorian diaspora continues to fund and support activities such as the hiring of armed elements, including mercenaries, to destabilize the current Government. The border between Côte d'Ivoire and Guinea also continues to pose challenges for border security forces and the Forces républicaines.

43. In this respect, the Working Group discussed the need for strong regional cooperation and continuous collaboration among countries of the Economic Community of West African States (ECOWAS) to improve oversight and control of cross-border activities. This is particularly required as a strategy to combat and prevent mercenarism and related activities.

2. Political partisanship

44. The Working Group notes the continuing political divide within Côte d'Ivoire and the adverse effects this has on reconciliation efforts. The lack of real and meaningful

engagement among political parties and the competition for the presidential elections to be held in 2015 have hampered rather than enhanced the reconciliation process. Much of the political dialogue continues to centre on pro-Gbagbo or pro-Ouattara sentiments despite the many efforts to enhance reconciliation and deal with the aftermath of the past crises.

45. The recent armed attacks, allegedly by mercenaries, and other external attempts to destabilize the country are also indicative of the prevalent political tension. The forthcoming presidential elections have intensified polarization and created fears of further instability.

3. Continuing threats of *dozos*

46. The presence of *dozos* in Côte d'Ivoire after the post-election crisis continues to threaten national security. *Dozos* are traditional hunters who belong to a brotherhood and are reported to have mystical powers. The Working Group considered the identity of *dozos* with interest, noting that, although some were Ivorian nationals who spoke a dialect that was common in northern Côte d'Ivoire, others were foreigners, normally from Guinea, Mali and Burkina Faso, who spoke a different dialect to that spoken by Ivorians. While there is a common practice dating back from before the crises of using *dozos* to guard neighbourhoods, homes and businesses, the role of dozos evolved significantly during the civil wars. *Dozos* fought alongside the Forces républicaines in support of the current regime and were reported to have committed scores of human rights violations between 2009 and 2013. They not only fought alongside the rebels, but also undertook functions normally attributed to elements of the State apparatus, such as the police and the gendarmerie. *Dozos* have been known to arbitrarily arrest and detain persons and were responsible for many killings, including in Duékoué and Kouibly, during the post-election conflict.

47. The Working Group is concerned about the information it received that *dozos* continue to exercise de facto governmental authority in the security sector. In some cases, *dozos* have even acted on the instruction or under the control of some elements of the security forces or the administrative authorities and were found within the national security apparatus of the State.

48. The Working Group is also concerned about the lack of prosecution of *dozos* who committed human rights violations during the conflicts and was informed that only two had been prosecuted through judicial proceedings. Their continued presence can have adverse effects on national security as well as on the process of national reconciliation.

49. The lack of control and oversight over the activities of these individuals could also lend credence to the allegation that they enjoy impunity owing to their close ties with the current government. The Working Group is further concerned that *dozos* continue to be armed with weapons other than their traditional ones. In the light of the national policy for disarmament and the dire need to limit the use of force to the State security sector, more efforts need to be taken to disarm *dozos*. There is a particular need for disarmament in cases of former combatants who actively engaged in the past conflicts.

50. *Dozos* were reported to be offering their services as personal bodyguards to a number of well-known personalities. Some are receiving significant financial payments for their services, prompting the Working Group to consider identifying them as "mercenary-related" actors given that some are foreigners and carrying out their function exclusively for monetary gain.

4. Weak State institutions

51. Security institutions continue to suffer from excessive politicization. The level of mistrust between those who served in the former army, police and gendarmerie and those who fought for the current regime is reportedly significant. While senior *comzones* (former

commanders and combatants) have been given official appointments within the State and security apparatus, the issue of parallel chains of command, notably between *comzones* and other Forces républicaines elements, constitute a major challenge to the development of an effective, cohesive and professional national army in Côte d'Ivoire. Furthermore, a number of *comzones* were reportedly perpetrators of human rights violations during the past conflicts yet have not been brought to trial, thus further compounding the problems of impunity and absence of impartial justice. A weak vetting process and gaps in training and discipline continue to be observed across the security and defence institutions.

52. In order to strengthen the judiciary, it is also important to ensure the protection of judicial officers and the recruitment of fair and impartial judges. Judicial offices were burned down and information kept on record could not be maintained, prompting the Working Group to recommend the consistent and systematic collection and analysis of data regarding the past conflicts, to facilitate the work of the judiciary and other investigative mechanisms. The Working Group was also informed of the deficiencies among law enforcement and the judicial system that hindered investigations and prosecutions.

53. Security concerns have also been associated with the slow progress of the national security sector reform process. Further to the endorsement of the national security sector reform strategy and the establishment of the National Security Council headed by the President, important steps have been made to enhance engagement with local authorities, civilian mechanisms and other national stakeholders in the process. However, the security sector reform activities continue to be mostly concentrated in Abidjan with limited impact at the local level. The lack of adequate resources and equipment of the police and gendarmerie in most areas except for Abidjan, Bouaké and Daloa is also hampering the forces' operational ability. While a national police reform plan was developed in 2013, it has not yet been officially endorsed by the Ministry of the Interior or implemented. The police vetting process, despite initial promising steps, has been placed on hold. The overall fragility of security and defence institutions has also had an impact on national engagement in regional security initiatives. Despite their commitment to the West Africa Coast Initiative to fight transnational crime, national authorities have not yet implemented the decree to establish a transnational crime unit.

5. Poverty and youth violence

54. The current socioeconomic situation, if not addressed effectively, could create further insecurity. The vulnerabilities of individuals such as young people, who have been consistently exposed to a culture of violence and who are also engaged in criminal activities as a result, need to be effectively addressed. During the past conflicts, many young people, including children, were recruited as combatants. Some of them were reported to have later become mercenaries given their extensive training and involvement in warfare. In what appears to be a vicious cycle of youth violence and a legacy of the post-election crisis, the Working Group was informed of the current phenomenon called "microbes", or germs, which refers to gangs of violent young people, including very young children. They are feared as they have committed offences that include killing, theft and other illegal activities. Most of these young people live in abject poverty. Child soldiers who were drawn into mercenarism were often from impoverished settings and there is concern that, given the current situation, this new phenomenon may thrive in Côte d'Ivoire.

6. Ongoing violence against vulnerable groups

55. The visiting delegation regularly received information from government officials and members of civil society about the disturbing trend of violence against vulnerable groups such as women and children. During both armed conflicts, mercenaries inflicted sexual violence against children and women, including female genital mutilation, as a

weapon of warfare. The report of the National Commission of Inquiry documented over 100 cases of sexual violence.

56. From 1 May to 30 September 2014, 120 cases of rape, including 29 gang rapes, were documented across the country. In total, 144 alleged perpetrators were tried and sentenced for lesser crimes such as indecent assault, while the others were released owing to lack of sufficient evidence since the victims had withdrawn their complaints and did not attend the court hearings. Impunity for sexual crimes remains a challenge and the shame and silence associated with this crime indicates that the number of victims could be higher.

57. The Working Group was informed of the newly launched national strategy for combating sexual and gender-based violence to address such problems as access to justice for victims, the effective application of the law and reparations for victims. The Working Group commends this effort.

7. Arms and weapons in the public domain

58. The Working Group was informed that, through the Authority on Disarmament, Demobilization and Reintegration process, an estimated 20,963 former combatants have been disarmed and demobilized as at July 2014. Women represented 7 per cent of this figure. Over 15,000 weapons, including grenades and rockets, have been collected, along with 570,903 rounds of ammunition. Undoubtedly, the disarmament, demobilization and reintegration operation has assisted in making civilian life safer for Ivorians.

59. However, despite the progress made in disarmament, there are still 40,000 former combatants in the general population who are armed and unemployed, constituting a major challenge to the targeted completion of the disarmament, demobilization and reintegration programme ahead of the presidential election in October 2015. The proliferation of small arms and light weapons in the civilian domain and the continued cross-border movements of armed groups have intensified the concerns over threats to national security.

60. The Working Group noted the need to ensure that former combatants are not absorbed back into occupations involving the use of force, for example by being recruited by the army or security companies. In this regard, screening and vetting regulations should be in place to ensure that those who have committed human rights violations should not be recruited into such professions. The Working Group also observed the need for an effective policy to recover weapons being traded illicitly.

8. Implementation of the demobilization and rehabilitation programme

61. In addition to receiving information on the disarmament and demobilization aspects of the Authority on Disarmament, Demobilization and Reintegration programme, the Working Group received information concerning problems regarding its resocialization and reinsertion aspects. Many former combatants were not able to participate in the programme and receive the benefits that it had to offer, such as medical and financial assistance and training to facilitate reintegration into the regular work force. The Working Group was informed that those who had benefited from the programme were former combatants affiliated with the current regime. As participation in the programme is voluntary, *comzones* were reported to be responsible for providing names of individuals who could go into the programme. These names, which were given to the Authority, reportedly belonged to relatives or persons who were not former combatants. This process gave *comzones* particular authority to select those who would be proposed for reintegration. The programme is scheduled to end in June 2015.

62. The claim that the disarmament, demobilization and reintegration programme was not impartial was refuted by the authorities, which pointed to a lack of resources and employment opportunities as the reason for the inability to reintegrate the large number of

former combatants and that political affiliation was not considered when selecting candidates for the programme. Of more than 60,000 former combatants, 7,000 were reported to have gone through the disarmament, demobilization and reintegration process. The Working Group stressed the importance of ensuring that the process is transparent and impartial.

9. Reprisals

63. In addition to being concerned about impunity and lack of effective justice for victims, the Working Group is concerned about reports that representatives of civil society organizations, including journalists, victims and witnesses to human rights violations during the conflicts, have faced reprisals for their roles in addressing the events that took place. Threats and intimidation against civil society representatives who spoke out against the current regime were commonplace. The enjoyment of certain freedoms, including of expression, opinion and assembly, has been restricted, and opposition parties were repressed both during Gbagbo's tenure and by the current regime.

64. The Working Group noted that reprisals made victims and civil society members reluctant to cooperate with the justice and human rights mechanisms dealing with the past conflicts.

65. On a positive note, the Working Group was informed of a bill on the protection of human rights defenders that was adopted by the Council of Ministers. The Working Group looks forward to its passage as a welcome and necessary initiative for ensuring legal protection for human rights defenders.

VII. Private security companies

66. In accordance with its mandate, the Working Group looked into the situation of private and military security companies operating in Côte d'Ivoire. It took note of the fact that most security operations in the country were led by domestic private security companies.

67. Decree 2005-73 regulates private security and guard companies in the country and grants oversight powers and responsibility to the Ministry of the Interior through the Directorate of Territorial Surveillance, along with support from the Ministry of Defence, the Ministry of Economy and Finance and the national police. The Decree prohibits private security personnel from performing certain activities, such as involvement in labour conflicts or related activities, or undertaking functions that overlap with the roles of the police or military, such as arresting and detaining persons and carrying and using firearms, unless permitted by the relevant government Ministry. However, the Decree does not mention the export and import of services or their extraterritorial application.

68. The Decree does not require a robust vetting process for private security companies, although inspections are carried out by the relevant government authority. There is no particular requirement for there to be a robust vetting process to ensure that private security personnel have not been involved in past human rights violations, nor is there any requirement to establish mechanisms of redress for victims in the event that violations do occur.

69. Despite there being regulations on private security companies since 2005, the Working Group found a number of discrepancies in how operations were actually carried out. The Working Group was informed of the various roles of such companies before the post-election crisis. In the lead-up to the crisis, a number of private security personnel became active in the political problems that triggered the violent clashes. They took sides in the conflict and some became combatants, motivated by both political allegiance and

financial gain. The delegation was informed that some private security personnel or combatants were currently participating in the disarmament and demobilization programme. During the conflict, some private security companies became influential owing to their ties to the former regime. One company reportedly took up surveillance operations for Gbagbo's side and another reportedly transported mercenaries throughout the country.

70. The Working Group observed that, after the past armed conflicts, there was a proliferation of private security companies in the country. It was informed that between 600 and 900 companies existed, most of which were operating in the interior part of the country, outside of Abidjan. The Ministry of the Interior gave the Working Group a list of licensed companies, which showed that only 64 such companies had received licences (as at October 2014). The delegation was informed of the ease with which an individual could start and operate a company without a licence. Some companies even began their operations and then later sought to obtain a licence. Licences were often rejected when the required criteria were not met. However, the Working Group was informed that, often, the decision to grant a licence was not transparent and rested merely on the discretion of the licensing commissioner. Normally, a group of five or six commissioners made decisions on the issuance of licences. Having a licence did not, however, guarantee that the company was being run in accordance with the law.

71. Private security personnel were often recruited on the basis of the company's needs and did not need to undergo any formal training. Personnel were often friends, relatives or persons in need of employment. Some form of training did take place in bigger operations, although it was provided haphazardly and did not emphasize human rights standards. The Working Group did, however, receive information that an estimated 10 private security companies had good and sound structures in terms of what was required by law.

72. The Working Group heard of a number of challenges related to the licensing procedure and regime. There were reports of corruption, particularly bribery of government staff who worked in the licensing department and whose assistance was needed to process licence requests. The Working Group consistently heard that the private security industry had expanded considerably because it was lucrative, raising concerns that, with profit as the main objective and without proper licensing and vetting mechanisms, human rights violations could be committed with impunity. The situation was viewed as particularly serious given that the allegation that private security company personnel were armed and could easily have access to heavy-duty weapons such as Kalashnikov rifles.

73. The Working Group received information that that the authority figures responsible for the licensing and oversight of the industry were themselves owners of private security operations, thus raising issues of conflict of interest and the need to have a more transparent system to regulate the industry.

74. The Working Group was concerned to hear that many former combatants had been recruited into private security operations and had access to weapons and arms in the course of their duties. It was also common to find private security personnel carrying out activities normally performed by the gendarmerie or the police, such as the arrest of individuals. Some private security operators stated that relying on law enforcement was often complicated given the lack of resources or even the lack of will to deal with crimes committed by private security companies. This meant that it was easier to take matters into one's own hands and track down burglars to recover stolen items, for instance. One operator reported that he had recovered stolen goods and money from a thief in the presence of gendarmerie officials, who were watching close by. Police officers were also said to operate as "freelancers", running their own private security operations in addition to performing their official functions. The conflation of functions between law enforcement actors and private security operators is a serious concern as it contravenes the law and is indicative of the lack of control and oversight over the private security industry. In this

context, where there is a blurring of lines between the private security operator and the law enforcement officer, illicit activities and human rights violations can occur with impunity.

75. The Working Group, in its dialogue with government authorities, raised the need to strengthen the oversight regime for private security companies, including to ensure that licensing is carried out in an effective and transparent manner with due consideration given to human rights and business and labour standards. Non-compliance with these rules can encourage criminal activities as well as human rights violations, as witnessed during the past conflicts. A system of accountability and remedies for victims of human rights violations or offences committed by private security personnel is fundamental and needs to be incorporated into law as well as practice. Effective inspections and controls need to be exercised over the illegal carrying of arms by private security personnel as this would further diffuse the security concerns associated with these operations.

76. The Working Group emphasizes that, given the violent past that Côte d'Ivoire has experienced and the prevailing culture of impunity for human rights violations, it is fundamental to curb the illegal operations of private security companies, particularly as their access to arms can continue to pose threats of further violence.

VIII. Conclusion and recommendations

77. **The Working Group reiterates its appreciation to the Government of Côte d'Ivoire for extending the invitation to visit the country in order to discharge the functions mandated by the Human Rights Council. The visiting delegation benefited from the Ivorian authorities' cooperation and willingness to engage in dialogue and discuss the country's difficult past.**

78. **The Working Group takes note of the many efforts and the progress that have been made to move the country forward in a difficult and challenging post-conflict situation. It commends the Government and its partners such as UNOCI for the initiatives they have undertaken to rebuild the nation and advance the reconciliation process.**

79. **The establishment of mechanisms to enhance reconciliation and investigate the past conflicts are fundamental to healing the wounds of the nation's past. The efforts made to ratify human rights treaties and to harmonize national legislation so that it conforms with international human rights standards have been important in strengthening the national legal framework to better address the challenges currently faced by Ivorians.**

80. **Despite the many positive steps taken by the Government, the Working Group raises serious concerns regarding factors that threaten to destabilize the country and reverse the progress that has been made in the past few years. It also notes that mercenarism thrives in conditions where the rule of law is weak, State institutions are fragile and political instability is rife.**

81. **Factors conducive to national instability in which mercenarism can flourish include the following: the failure to bring to justice perpetrators of human rights violations and the prevalent culture of impunity; the lack of access to effective justice and redress for victims; the discriminatory and politicized manner in which justice has been applied, focusing on perpetrators from the former regime and neglecting to prosecute supporters of the current regime; the prevalent political divide in the country; ongoing vicious cycles of violence; and the proliferation of arms in the public domain.**

82. **The Working Group reiterates that, without justice for victims, real and lasting reconciliation cannot be achieved.**

83. **In the light of the foregoing, the Working Group makes the following recommendations to the Government:**

(a) Consider developing national legislation to criminalize mercenarism and mercenary-related acts;

(b) Ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the African Union Convention for the Elimination of Mercenarism in Africa;

(c) Strengthen ongoing cooperation with international and regional mechanisms, including ECOWAS, to combat mercenarism and mercenary-related activities;

(d) Increase efforts with ECOWAS and neighbouring countries to tighten border control and management;

(e) Ensure that all perpetrators, including mercenaries, are held accountable for past violations and are tried by a competent, independent and impartial tribunal, in compliance with international human rights standards;

(f) Ensure that anyone who is accused of involvement in a mercenary-related incident is treated in accordance with international human rights standards, in particular the right to be free from arbitrary deprivation of liberty and from torture and other cruel, inhuman or degrading treatment or punishment;

(g) Ensure that detainees are not discriminately charged and held in prolonged detention owing to their political affiliations and ensure the release of detainees who are being held beyond the duration required by law and without substantiated charges;

(h) Fully cooperate with the investigations of the International Criminal Court and other judicial mechanisms aimed at bring all perpetrators to justice for violations in the past conflicts;

(i) End impunity related to *dozos*, ensure that *dozos* are not carrying out State security functions and ensure the disarmament of *dozos*;

(j) Reduce vulnerability to mercenary attacks by promoting and strengthening the rule of law and State institutions such as the judiciary and law enforcement agencies and ensure that the independence of the judiciary is always respected;

(k) Strengthen the National Human Rights Commission and ensure it conforms to the Paris Principles relating to the status of national institutions for the promotion and protection of human rights, in respect of its mandate, composition, organization, functioning and independence;

(l) Ensure access to effective justice and legal remedies for victims of human rights violations committed by mercenaries and other armed actors in the past conflicts;

(m) Implement the recommendations made by the National Commission of Inquiry, expedite the Commission's fight against impunity and prosecute the perpetrators of serious violations of human rights committed during the past conflicts regardless of their political affiliations;

(n) Take measures to systematically collect and analyse data to facilitate access to justice and reparations for victims of the past conflicts;

(o) Continue the work that is currently being done to harmonize national legislation with international human rights standards and, in this respect, urgently adopt the laws on the protection of human rights defenders and the protection of witnesses and victims in judicial processes relating to the conflicts, ensuring their effective implementation;

(p) Include in its criminal law the definition of rape and other crimes of a sexual nature and intensify efforts to combat violence against women by implementing comprehensive laws prohibiting sexual and gender-based violence and by providing the necessary support to victims of such violence;

(q) Ensure continuous efforts to strengthen the process of national reconciliation carried out by the Dialogue, Truth and Reconciliation Commission and related initiatives;

(r) Intensify efforts to end the proliferation of arms and weapons in the public domain and strengthen support towards demobilization and disarmament; continue cooperation with UNOCI and other partners in this objective;

(s) Ensure that programmes such as that on disarmament, demobilization and reintegration are carried out in a transparent, impartial and democratic manner and that former combatants benefit from them irrespective of their political affiliations and ensure also that former combatants are not recruited into professions where the use of force is required and that those who have been involved in mercenarism or mercenary-related activities do not benefit from the disarmament, demobilization and reintegration programme;

(t) Consolidate the progress achieved in the field of human rights education and training by regularly organizing, with the assistance of the international community, seminars and awareness-raising workshops on human rights, particularly for members of the security forces and the judiciary.

84. Concerning private security companies:

(a) Take measures to strengthen the licensing regime to curb the expansion of illegal private security operations;

(b) Strengthen oversight of private security operations and ensure appropriate vetting systems to better prevent human rights violations and protect against the perpetrators of such violations;

(c) Ensure that former combatants are not recruited by private security companies, particularly where they are armed and the use of force is likely;

(d) Ensure that international human rights standards are incorporated into the training manuals of private security companies and that this becomes a standard requirement for licensing;

(e) Ensure that private security personnel do not carry out functions that are exclusively for State security apparatus;

(f) Carry out rigorous disarmament efforts targeted at private security personnel;

(g) Have an independent oversight mechanism to ensure that licensing authorities function without conflict of interest and are not unduly benefiting from the private security industry.